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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JEFF N. ROSE,

Petitioner,

vs.

ROBERT LeGRAND, *et al.*,

Respondent.

Case No. 3:13-cv-00267-MMD-WGC

**STIPULATION TO ALTER OR AMEND
JUDGMENT**

Respondents and petitioner Jeff N. Rose (“Rose”) stipulate to request this Court modify the deadline for commencement of any retrial until December 10, 2021. This stipulation is based upon the provisions of Rules 59(e) and Rule 60 of the Federal Rules of Civil Procedure, along with all other papers, documents, records, pleadings and other materials on file herein.

POINTS AND AUTHORITIES

This Court denied Rose’s amended petition for a writ of habeas corpus. ECF No. 44. On September 24, 2019, the Ninth Circuit Court of Appeals affirmed in part, reversed in part, and remanded with instructions for this Court to conditionally grant a writ of habeas corpus. ECF No. 48. The Ninth Circuit subsequently granted Respondents’ motion to stay the issuance of the mandate pending the filing of a petition for writ of certiorari in the United States Supreme Court and indicated that the stay would continue until the Supreme Court resolved the petition. ECF No. 51.

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1 On April 9, 2020, the Ninth Circuit Court granted Rose's motion for release pursuant to Federal
2 Rule of Appellate Procedure 23(c) and remanded to this Court for the limited purpose of conducting a
3 bond hearing to determine bond and other appropriate conditions for release. ECF No. 54 at 4. This
4 Court conducted the bond hearing and ordered Rose's release in a minute order dated April 13, 2020.

5 Respondents later filed a petition for a writ of certiorari. After the United States Supreme Court
6 denied Respondents' petition and the Ninth Circuit issued the mandate, ECF No. 63, this Court entered
7 an order conditionally granting the writ of habeas corpus, ECF No. 65. This Court vacated Rose's
8 judgment of conviction and ordered him to be released from all forms of custody within 30 days, unless
9 the State filed an election to retry Rose within that 30-day period and thereafter commenced jury
10 selection within 120 days. *Id.* at 2. This Court noted that it would grant reasonable requests for
11 modification of the time periods in the judgment upon motion by either party. *Id.*

12 Respondents notified the Court that the State of Nevada intended to retry Rose on or about
13 February 23, 2021. ECF No. 67. The parties subsequently stipulated that this Court should modify its
14 order granting the conditional writ of habeas corpus to reflect that any retrial may commence by May
15 24, 2021. ECF No. 68. This Court granted the stipulation and modified its order. ECF No. 69. The
16 parties subsequently stipulated that this Court should modify its order again to reflect that any retrial
17 may commence by October 11, 2021. ECF No. 71.

18 Rose remains released subject to the conditions outlined in this Court's minute order. Based
19 upon representations from the state prosecutor, the state parties have agreed to continue the date for
20 retrial due to accommodate state defense counsel's calendar, pending ongoing negotiations. Out of an
21 abundance of caution, Respondents and Petitioner jointly stipulate that this Court modify its order
22 granting the conditional writ of habeas corpus to reflect that any retrial may commence by December
23 10, 2021, if a retrial is deemed necessary. Both Petitioner and Respondents believe a continuance

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beyond the current time period imposed by this Court is appropriate and that this Court's judgment should be amended to reflect such continuance. The parties therefore stipulate to amending the judgment to permit retrial of this matter by December 10, 2021.

RESPECTFULLY SUBMITTED on this 28th day of September, 2021.

AARON D. FORD
Attorney General

By: /s/ Charles L. Finlayson
CHARLES L. FINLAYSON (Bar. No. 13685)
Senior Deputy Attorney General

RENE L. VALLADARES
Federal Public Defender

By: /s/ Amelia L. Bizzaro
Amelia L. Bizzaro (Bar. No. 1045709)
Assistant Federal Public Defenders

ORDER

IT IS SO ORDERED.

Dated this 29th day of September, 2021.



DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 28th day of September, 2021, I served a copy of the foregoing **STIPULATION TO ALTER OR AMEND JUDGMENT**, by U.S. District Court CM/ECF electronic filing to:

Amelia L. Bizzaro
Assistant Federal Public Defenders
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101

/s/ Amanda White